

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:13-cr-00087-MOC

UNITED STATES OF AMERICA,

Vs.

JAMES ISAAC DRAYTON,

Defendant.

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ORDER

THIS MATTER is before the court on defendant's Letter Concerning Conditions of Presentence Confinement. Specifically, defendant complains of jail staff not checking his anti-seizure medication level: "I wrote grievance after grievance begging the medical staff to check my medication level and they wrote me each time refusing." Defendant has also submitted copies of those grievances as well as the responses given by jail staff. The court has closely reviewed all of the submitted materials.

First, defendant is advised that this is a criminal action and that any request addressed to the court should be submitted by his attorney. Anything a criminal defendant says, whether orally or in writing, could be used against him at sentencing and defendant is cautioned to have his attorney intercede on his behalf when necessary.

Second, the court is not defendant's custodian. Presently, defendant is in the custody of the United States Marshal and any concern he may have concerning such custody should be addressed to the United States Marshal for the Western District of North Carolina. As a courtesy, the court will forward the instant letter to the Marshal for his consideration.

Third, review of the grievance forms as well the answers given by jail authorities indicates that jail authorities have not neglected defendant's medical needs; rather, defendant has refused to cooperate and frustrated medical efforts to draw blood, which is necessary to monitor and adjust his medication levels. Based on the papers defendant has submitted, it is apparent that defendant's remedy is found in simply being cooperative with medical staff.

Fourth, and finally, if defendant is attempting to bring a civil action against the United States Marshal based on the conditions of his presentence confinement, he is advised that he would need to file a civil Bivens action. Such a cause of action would require exhaustion of all administrative remedies, which include seeking redress from the United States Marshal, among other things. No relief is available in this criminal case.

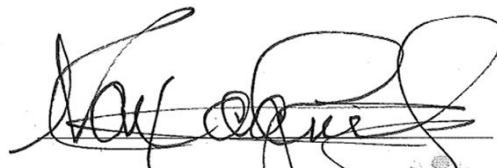
Having considered defendant's letter and reviewed the pleadings, the court enters the following Order.

ORDER

IT IS, THEREFORE, ORDERED that defendant's letter (#24), to the extent it seeks relief in this criminal action, is **DENIED**.

The Clerk of Court is instructed to send a copy of this Order and defendant's letter (#24) to the United States Marshal.

Signed: December 18, 2013



Max O. Cogburn Jr.
United States District Judge